



[4830-01-P]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9622]

RIN 1545-BI96

Guidance Regarding Deferred Discharge of Indebtedness Income of Corporations and Deferred Original Issue Discount Deductions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations and removal of temporary regulations (TD 9622) that were published in the **Federal Register** on Wednesday, July 3, 2013 (78 FR 39984). The final regulations provide necessary guidance regarding the accelerated inclusion of deferred discharge of indebtedness (also known as cancellation of debt (COD)) income (deferred COD income) and the accelerated deduction of deferred original issue discount (OID) (deferred OID deductions) under section 108(i)(5)(D) (acceleration rules), and the calculation of earnings and profits as a result of an election under section 108(i). In addition, these regulations provide rules applicable to all taxpayers regarding deferred OID deductions under section 108(i) as a result of a reacquisition of an applicable debt instrument by an issuer or related party.

DATES: This correction is effective on **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]** and is applicable on or after July 2, 2013.

FOR FURTHER INFORMATION CONTACT: Robert M. Rhyne, at (202) 622-7790 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations and removal of temporary regulations (TD 9622) that are the subject of this correction are under section 108(i) of the Internal Revenue Code.

Need for Correction

As published, the final regulations and removal of temporary regulations (TD 9622) contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805***

Par. 2. Section 1.108(i)-0 is amended by revising paragraph (b) to read as follows:

§1.108(i)-0 Definitions and effective/applicability dates.

* * * * *

(b) Effective/Applicability dates--(1) In general. The rules of this section, §1.108(i)-1, and §1.108(i)-2, apply on or after July 2, 2013, to reacquisitions of applicable debt instruments in taxable years ending after December 31, 2008. In

addition, the rules of §1.108(i)-3 apply on or after July 2, 2013, to debt instruments issued after December 31, 2008, in connection with reacquisitions of applicable debt instruments in taxable years ending after December 31, 2008.

(2) Prior periods. For rules applying before July 2, 2013, see §1.108(i)-0T, §1.108(i)-1T, §1.108(i)-2T, and §1.108(i)-3T, as contained in 26 CFR part 1, revised April 1, 2013.

Par. 3. Section 1.108(i)-1 is amended by revising the third and fourth sentences of paragraph (b)(2)(iii)(D), and the fifth and seventh sentences of paragraph (c)

Example 3 (ii) to read as follows:

§1.108(i)-1 Deferred discharge of indebtedness income and deferred original issue discount deductions of C corporations.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(D) * * * Appropriate adjustments must be made to take into account any issuances or redemptions of stock, or similar transactions, occurring during the taxable year of distribution or any of the preceding three taxable years. If the electing corporation has a short taxable year for the year of the distribution or for any of the preceding three taxable years, the amounts are determined on an annualized basis. * **

* * * * *

(c) * * *

Example 3. * * *

(ii) * * * However, under paragraph (b)(2)(iii)(A) of this section, S's distribution to P is an impairment transaction and the net value acceleration rule is applied with respect to the assets, liabilities, and deferred items of P (S's successor). * * *

Accordingly, under the net value acceleration rule of paragraph (b)(2)(iii)(A) of this section, S is required to take into account its \$400 of deferred COD income immediately before the distribution, unless value is restored to P pursuant to paragraph (b)(2)(iii)(C) of this section.

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